

REMARKS

This Amendment is in response to the Final Office Action mailed December 28, 2006.

Applicant has filed a Request for Continued Examination to have the Office withdraw the finality of the Office Action and have this submission entered and considered. In the Office Action, the Examiner rejected claims 1-33 under 35 U.S.C. § 103. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Rejection Under 35 U.S.C. § 103

3. The Examiner rejects claims 1-33 under 35 U.S.C. 103(a) as being unpatentable over Fan et al. (USPN 6,408,005), in view of Hughes et al. (USPN 5,835,494).

Applicant has cancelled all pending claims and presents new claims 33-53 directed to the same subject matter and redrafted to more clearly point out and distinctly claim the invention. Applicant respectfully submits that the present invention is distinguished from the combination of Fan and Hughes at least by the use of a speed-up signal to select buffers from which to transmit data units and by the techniques for asserting and deasserting the speed-up signal as claimed in independent claims 34, 39, 44, and 49. Fan discloses serving queues where timestamps are less than the current time using round-robin with priority based on data rate requirements. Col. 17, line 25, to col. 18, line 22.

The Examiner has pointed out that Fan provides a mechanism to detect that the timestamp has fallen behind current time by a designated amount and to catch up the queue by scheduling at the minimum guaranteed rate. Col. 16, lines 40-50. As now claimed, the present invention detects buffers that need to be caught up by counting the number of cells that are

transmitted more than two times the ICG late and giving those buffers priority in selection if the number of late cells exceeds a threshold. Applicant respectfully submits that this is distinctly different than the combination of Fan and Hughes.

Conclusion

Applicant reserves all rights with respect to the applicability of the doctrine of equivalents. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Authorization for Extension of Time, All Replies

Authorization is given to treat any concurrent or future reply, requiring a petition for an extension of time under 37 CFR 1.136(a) for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. If any other petition is necessary for consideration of this paper, it is hereby so petitioned. Please charge any shortage in fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 02-2666 and please credit any excess fees to such deposit account.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: March 28, 2007

By _____ /James Henry/

James Henry
Reg. No. 41,064
Tel.: (714) 557-3800 (Pacific Coast)